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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,494	11/13/2001	Kirk S. Giboney	10010363-1	2267

7590 10/07/2002  
AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Department  
P.O. Box 7599  
Loveland, CO 80537-0599

EXAMINER

PETKOVSEK, DANIEL J

ART UNIT PAPER NUMBER

2874

DATE MAILED: 10/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/007,494  
Examiner Daniel J Petkovsek

Applicant(s) GIBONEY ET AL.  
Art Unit 2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) [ ] Responsive to communication(s) filed on \_\_\_\_\_.
2a) [ ] This action is FINAL. 2b) [x] This action is non-final.
3) [ ] Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) [x] Claim(s) 1-33 is/are pending in the application.
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
5) [ ] Claim(s) \_\_\_\_\_ is/are allowed.
6) [x] Claim(s) 1-33 is/are rejected.
7) [ ] Claim(s) \_\_\_\_\_ is/are objected to.
8) [ ] Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) [ ] The specification is objected to by the Examiner.
10) [x] The drawing(s) filed on 13 November 2001 is/are: a) [x] accepted or b) [ ] objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
11) [ ] The proposed drawing correction filed on \_\_\_\_\_ is: a) [ ] approved b) [ ] disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.
12) [ ] The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) [ ] Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) [ ] All b) [ ] Some \* c) [ ] None of:
1. [ ] Certified copies of the priority documents have been received.
2. [ ] Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. [ ] Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
\* See the attached detailed Office action for a list of the certified copies not received.
14) [ ] Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) [ ] The translation of the foreign language provisional application has been received.
15) [ ] Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) [x] Notice of References Cited (PTO-892)
2) [ ] Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) [ ] Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
4) [ ] Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
5) [ ] Notice of Informal Patent Application (PTO-152)
6) [ ] Other:

Brian Healy Primary Examiner

Part of Paper No. 4

## DETAILED ACTION

### *Inventorship*

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1, 2, 5, 7, 9, 10, 13-15, 18, 19, 22, 25-27, 29, and 31-33 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Connor et al. U.S.P. No. 6,450,704.

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O'Connor et al. U.S.P. No. 6,450,704 teach (Fig 1; Col 3 lines 1-23) an apparatus (and method of using same) which is an encasement for a connecting device to connect and interface an electro-optic signal device to an optical cable comprising the following: base portion 29 encasing a plurality of optical devices in an optical array, an optically transparent substrate 11 connectable to base 29, substrate 11 being optically transparent and having a glass-like structure with desired optical properties (Col 3, lines 14-16) with a recessed portion to receive the electro-optic device 18, alignment pins 28 in alignment recesses 26 on the substrate 11 to create an alignment between the connector and the communications device relative to the substrate, the alignment pins 28 attached to the base 29 by an adhesive, or formed by molding or compression fit processes (Col 4, lines 27-30). The device of O'Connor et al. '704 clearly, fully meets Applicant's claimed limitations.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 4, 6, 8, 11, 12, 16, 17, 20, 21, 23, 24, 28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connor et al. U.S.P. No. 6,450,704.

O'Connor et al. U.S.P. No. 6,450,704 teach (Fig 1) a method and apparatus for an enclosure for an electro-optical communications device for connecting and interfacing the device to an optical cable, comprising of a base portion, a substrate lid portion, and

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alignment members on the substrate portion to align the connector. O'Connor et al. '704 does not explicitly teach a number of different fabrications and processes to make the alignment members. Since a number of fabrication processes (and the like) for making alignment members for optical connection devices are well known in the art, and that the claims referenced are non-critical limitations that do not change the overall scope of the optical assembly device of O'Connor et al. '704, it would have been obvious to a person having ordinary skill in the art to use a number of different forms of alignment devices on the substrate of O'Connor et al. '704.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, with respect to the state of the art of optical communication device enclosures with alignment members:

U.S.P. No. 6,234,687 to Hall et al.

U.S.P. No. 6,331,079 to Grois et al.

U.S.P. No. 6,056,448 to Sauter et al.

U.S.P. No. 5,768,456 to Knapp et al.

U.S.P. No. 6,168,317 to Shahid.

U.S.P. No. 5,671,311 to Stillie et al.

U.S.P. No. 5,452,390 to Bechtel et al.

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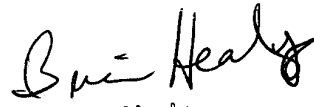
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J Petkovsek whose telephone number is (703) 305-6919. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (703) 308-4819. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9321.



Daniel Petkovsek  
October 3, 2002



Brian Healy  
Primary Examiner